

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2400 OF 2006

Shri Laxman Damu Kasbe ..Petitioner

Vs.

The Hon'ble Minister for Food, Civil
Supplies & Consumer Protection
Govt. of Maharashtra and ors. ..Respondents

Mr. S.G. Kudle for petitioner.
Mr. A.H. Palekar, AGP for State.

CORAM: B.H. MARLAPALLE, J.

Reserved on : July 14, 2006.

Pronounced on: July 25, 2006.

P.C.:

1. This petition challenging the decision of the Hon'ble Minister for Food Supplies and Consumer Protection, Maharashtra State passed on 3/1/2006, in fact, challenges the order dated 14/6/2004 passed by the District Supply Officer, Solapur and confirmed by the Deputy Commissioner (Supplies), Pune Division on 28/9/2004. The Supply Officer has suspended the licence of Fair Price Shop of the petitioner as issued to him under Essential Commodities Act, 1955.

2. The learned counsel for the petitioner submitted that the petitioner being the husband of a lady Sirpanch and from the down trodden community was targeted and for extraneous considerations the impugned order came to be passed by the District Supply Officer when the Deputy Commissioner (Supplies) by his earlier order had restored the quota of the petitioner's shop. He also alleged that the orders have been passed on fabricated and baseless grounds and, in fact, the Supply Inspector never inspected the petitioner's Fair Price Shop on 10/2/2004 and he made a false report of inspection alleging that there were short supplies noticed in his shop. In view of these serious allegations, I had called for the record and proceedings from the office of the District Supply Officer, Solapur and on perusal of the same I am satisfied that the impugned orders do not call for any interference.

3. The record shows that on 10/2/2004 the Supply Inspector visited the petitioner's Fair Price Shop and noticed that 5 quintal 40 kgs. of rice under the

scheme of school feeding was found less, he drew a panchanama and submitted a report to the District Supply Officer. The petitioner was issued a show-cause notice on 18/3/2004 by the District Supply Officer calling upon him to submit his explanation as to why penal action should not be taken against him, including cancellation/suspension of the Fair Price Shop licence. It was contended by Mr. Kudle that the petitioner all along maintained that the Supply Inspector did not visit his shop on 10/2/2004 and the record belies this contention. It is seen that the petitioner submitted his reply to the show-cause notice on 25/3/2004 as has been noted in the revision order passed by the Deputy Commissioner (Supplies), Pune Division. In this reply signed by the petitioner himself he has not denied the visit of the Supply Inspector to his shop on 10/2/2004. After the show-cause notice was given, the Tahasildar, MHADA by his order dated 12/5/2004 transferred the quota of the petitioner's shop to Shri S.K. Yadav who is another authorised Fair Price Shop owner. However, this order was cancelled by the Deputy Commissioner (Supplies), Pune Division and the petitioner's quota was resumed

and rightly so because no further action was by then finalised against the petitioner. The District Supply Officer after considering the record and the reply submitted by the petitioner to the show-cause notice passed the impugned order on 14/6/2004 and suspended the petitioner's Fair Price Shop licence.

4. The Deputy Commissioner (Supplies) has duly considered the record and agreed with the findings that 5 Quintal and 40 Kgs. of rice from the scheme which was meant for feeding the primary school children was found in short supply in the petitioner's shop and obviously the petitioner had engaged in unfair practice and thus violated the conditions of licence as well as the Maharashtra Scheduled Commodities (Distribution Rules) Order 1975. The Hon'ble Minister has considered the record once again and concurred with the findings of both the officers below by the impugned order dated 3/1/2006.

5. It is also to be noted that the petitioner's Fair Price Shop has not been cancelled or revoked and the same has been suspended. This suspension cannot

continue for an indefinite period. It will be, therefore, necessary for the District Supply Officer as well as the Deputy Commissioner (Supplies), Pune Division to consider restoration of the petitioner's licence within a fixed period and in any case before 31st October, 2006 i.e. before the Diwali festival starts.

6. In the premises, there is no case made out to cause interference in the concurrent findings recorded by all the authorities below and hence the petition fails at the threshold. The same is hereby rejected summarily. The respondent nos.2 and 3 are directed to consider revoking the suspension of the petitioner's licence by taking into consideration the provisions of the Essential Commodities Act as well as The Maharashtra Scheduled Commodities (Distribution Rules) Order 1975 and any other Rules applicable and more so when the petitioner comes from the lowest social group.

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(B.H. Marlapalle, J.)